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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/759,620

01/16/2004

Charles A. Eldering

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TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME
2003 SOUTH EASTON RD
SUITE 208
DOYLESTOWN, PA 18901

EXAMINER

CHIN, RICKY

ART UNIT

PAPER NUMBER

4157

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/759,620	Applicant(s) ELDERING ET AL.	
	Examiner Ricky Chin	Art Unit 4157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1-16-04; 7-26-04; 8-9-04; 8-12-04; 6-27-05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims (1-24) are rejected under 35 U.S.C. 103(a) as being unpatentable over Safadi, US 6,487,721 in view of Carles, US 5,661,516.

Regarding claim 1, Safadi teaches a method for managing selection and insertion of advertisements which includes varying the quantization parameters to enable rate adaptation such that the commercial content fits the bandwidth allocated for the program to which the commercial belongs (See col. 5 lines 27-34). This would imply an assessment between the bandwidth requirement and the program stream (See col. 6 lines 38-40 which refers to descriptive parameters pertaining to the program attributes that the commercial must match, rate being one of them). Safadi, in the disclosed invention does not explicitly teach the receiving and selecting of advertisement characteristics which include intended target market characteristics.

However, Carles teaches of advertisements which include intended target market characteristics (See col. 3 lines 1-30). Thus, it would have been obvious to one or

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ordinary skill in the art at the time of the invention to have modified the disclosed invention of Safadi to include the teachings of Carles, for the added benefit of allowing a successful/quality insertion of a targeted advertisement with regards to available bandwidth and bandwidth requirements.

Regarding claim 2, which further limits claim 1, wherein said selecting targeted advertisements includes selecting advertisements having minimum bandwidth requirements in close proximity to the avail bandwidth (See col. 5 lines 27-34 of Safadi, which discloses rate adaptation). Thus, it would have been obvious of one of ordinary skill in the art at the time of the invention to have combined the teaching of Safadi and Carles for the benefit of allowing a successful/quality insertion of a targeted advertisement.

Regarding claim 3, which further limits claim 1, wherein said selecting targeted advertisements includes selecting advertisements having minimum bandwidth requirements less than or equal to the avail bandwidth (See col. 5 lines 27-34 of Safadi, which discloses rate adaptation). Thus, it would have been obvious of one of ordinary skill in the art at the time of the invention to have combined the teaching of Safadi and Carles for the benefit of allowing a successful/quality insertion of a targeted advertisement.

Regarding claim 4, which further limits claim 1, further comprising receiving subscriber characteristics for a plurality of subscribers, wherein said selecting targeted advertisements includes comparing the intended target market characteristics and the subscriber characteristics. (See col. 3, lines 16-62 of Carles, wherein the household database containing statistical information of subscribers is used).

Regarding claim 5, which further limits claim 4, wherein said receiving subscriber characteristics includes receiving node characteristics that are an aggregate of the subscriber characteristics for subscribers associated with a node. (See col. 3, lines 16-62 of Carles, wherein the conveyed information pertains to a group of households).

Regarding claim 6, which further limits claim 4; Safadi and Carles do not explicitly teach the available data as being public or private.

Official Notice is taken to note that at the time the invention was made, categorizing data, as being public or private for subscriber protection was well known in the art. It would therefore have been obvious for one of ordinary skill in the art to incorporate the desirable advantage of public and privately stored subscriber data.

Regarding claim 7, which further limits claim 6; Safadi and Carles do not explicitly teach of the publicly available data that includes real estate records and tax assessment records. However, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify the parameters utilized to include such

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data, as a matter of preference, at least for the desirable benefit of more accurately describing the user.

Regarding claim 8, which further limits claim 4, wherein said receiving subscriber characteristics includes receiving subscriber characteristics associated with a group of subscribers. (See col. 3, lines 16-62 of Carles, wherein the conveyed information pertains to a group of households).

Regarding claim 9, which further limits claim 1, further comprising retrieving avail characteristics, wherein said selecting targeted advertisements includes comparing the intended target market characteristics and the avail characteristics (See col. 6 lines 38-40 of Safadi, which includes descriptive parameters pertaining to the program attributes that the commercial must match).

Regarding claim 10, which further limits the system of claim 1, wherein the intended target market characteristics include demographics. (See col. 5, lines 1-30 of Carles, which refers to demographics)

Regarding claim 11, which further limits claim 10, wherein a probabilistic distribution is assigned to various demographic attributes. (See col. 5, lines 1-45 of Carles, which refers to weighting on a statistical analysis).

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Regarding claim 12, which further limits claim 1, further comprising inserting the targeted advertisement into the avail. (See claim 1 and Abstract of Carles)

Regarding claim 13, which further limits claim 12, further comprising delivering the advertisement to at least some subset of the subscribers. (See Abstract and col.5 of Carles)

Regarding claim 14, which further limits claim 13, wherein the subset includes individual subscribers. (See Abstract and col. 5 of Carles)

Regarding claim 15, which further limits claim 13, wherein the subset includes a group of subscribers. (See Abstract and col. 5 of Carles)

Regarding claim 16, which further limits claim 15, wherein the group of subscribers are generated based on connectivity. (See Abstract and col. 5 of Carles)

Regarding claim 17, which further limits claim 13, wherein the subscribers include at least some subset of individuals, households, and groups. (See Abstract and col. 5 of Carles)

Regarding claim 18, which further limits claim 1, Safadi teaches of a multiplexed stream (See col.3 lines 38-50 of Safadi, which discloses that a plurality of single video program transport streams may be multiplexed into a multi-program transport stream, and the multi-program transport stream forwarded to the commercial inserter).

Regarding claim 19, claim limitations have been analyzed and rejected with regards to claims 1-3.

Regarding claim 20, claim limitations have been analyzed and rejected with regards to claim 18-19.

Regarding claim 21, claim limitations have been analyzed and rejected with regards to claims 1-4, 16.

Regarding claim 22, claim limitations have been analyzed and rejected with regards to claims 1-3. Furthermore, acceptable format is dependent upon the operator and viewer.

Regarding claim 23, which further recites claim 22, further comprising halting the insertion of the digitally compressed advertisement when the minimum acceptable bit rate is greater than the advertisement insertion opportunity bit rate (See col. 6 lines 10-15 of Safadi, which discloses that the status of the inserter may be monitored and

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detected to determine if an error has occurred). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have deemed the above situation as an error and halted an insertion for the benefit of preventing a possible overload.

Regarding claim 24, claim limitations have been analyzed and rejected with regards to claims 1-4, 16.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1.US 5,424,770 – which teaches of an insertion of commercials from a remote source

2.US 5,652,615 – which teaches of a system for precision broadcast of composite programs including secondary program content such as advertisements.

Contact

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky Chin whose telephone number is 571-270-3753. The examiner can normally be reached on M-F 8:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on 571-272-7332. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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